State of California

Legislative Change No.   03-04

Bill Number: AB 1752	Author: Assem. Budget Comm.	Chapter Number: 03-225

Laws Affecting Franchise Tax Board: Family Code Sections 17522.5 and 17560. Revenue and Taxation Code Sections 19271 and 19271.6.

Date Filed with the Secretary of the State: August 11, 2003

SUBJECT: Child Support Enforcement/Order To Withhold/Claims Of Exemption

Assembly Bill 1752 (Assembly Budget Committee), as enacted on August 11, 2003, made the following changes to California law:

Section 17522.5 of the Family Code is added.

This act requires a financial institution, person, or securities intermediary to liquidate the financial assets of an individual obligor who owes child support when a local child support agency or the Franchise Tax Board (FTB) issues a levy.

Section 17560 of the Family Code is added.

This act requires the Department of Child Support Services (DCSS) to create an offer in compromise (OIC) program for child support debts. DCSS would be required to consult with FTB in the development of the program.

Section 19271 of the Revenue and Taxation Code (R&TC) is amended.

This act provides that FTB may be specifically authorized to take an enforcement action to collect a child support delinquency by another provision of law (see below), even if a court has ordered an obligor to make scheduled payments and the obligor is in compliance with that order.

Section 19271.6 of the R&TC is amended.

With respect to the current law regarding the Financial Institution Match System (or Financial Institution Data Match (FIDM)) and the requirement that counties notify FTB of specific instances where FTB is prohibited from using the FIDM information to issue levies, this act:

- Removes the requirement that counties must notify FTB when the obligor is less than 90 days delinquent in the payment of any amount of support.
- Removes the language prohibiting FTB from using FIDM information in the instances where FTB is notified of an obligor who meets a specific condition.

Bureau Director	Date
Jana Howard for Brian Putler	8/22/03

- Provides that if any of the conditions exist, then the assets of the obligor that are held by a financial institution are subject to levy by FTB. The following conditions exist with respect to such a levy:
    o The first $3,500 is exempt from levy without the obligor having to file a claim for exemption.
    o An obligor may file a claim for exemption for an amount that is less than or equal to the total amount levied. The sole basis for a claim for exemption is financial hardship for the obligor and the obligor's dependents.
    o Existing law regarding levies and claims of exemption does not apply to a claim for exemption under this act.
    o The local child support agency is the levying officer for purposes of compliance with current laws regarding the claiming of exemptions (except for their release of property).
    o The local child support agency notifies FTB within two business days of receipt of a claim for exemption by an obligor. FTB then directs the financial institution subject to the order to withhold (OTW) to hold any funds until FTB notifies the financial institution to remit or release the funds.
    o The superior court of the county in which the local child support agency is located has jurisdiction to determine the amount of exemption allowed.
    o Once the local child support agency receives an endorsed copy of the court order regarding the exemption, the local child support agency provides a copy of the order to FTB within two days. FTB then instructs the financial institution to remit or release the obligor's funds as instructed by the court order.

This act is effective August 11, 2003, and operative for OTWs issued after that date.

This act will not require any reports by the department to the Legislature.